

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

KERRY LOY, et al.,	)	
	)	
Plaintiffs,	)	
vs.	)	Case No. 4:19-CV-00184 JAR
	)	
	)	
BMW OF NORTH AMERICA, LLC, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on the *in camera* review of documents submitted by BMW in response to this Court’s September 2, 2021 Order. (Doc. Nos. 108, 109). Plaintiffs moved for an order compelling BMW to produce materials presented during a conference in Las Vegas, Nevada in 2018 for dealers and company employees regarding oil consumption issues in N63 engines. BMW initially represented there were no such materials to produce and that an affidavit attesting to that fact was forthcoming. Plaintiffs eventually filed a motion for contempt and sanctions against BMW. BMW responded by providing Plaintiffs with 14 slides presented at the 2018 Las Vegas Conference related to oil consumption in N63 engines and designated the slides “Confidential.” (Doc. No. 104, 104-1).

Plaintiffs have asked the Court to remove the confidential designation from the presentation materials because the slides do not contain trade secrets or other research, development, or commercial information the disclosure of which would work a clearly defined and very serious injury to BMW. The Court directed BMW to submit the materials to the Court for an *in camera* review to determine whether the information contained in the slides qualifies for protection under the parties’ stipulated Protective Order. BMW contends the presentation is confidential because it consisted of internal discussions regarding the terms of settlement in the

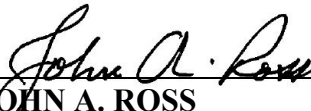
Bang class action that was not yet finalized or approved and thus not discoverable under Federal Rule of Evidence 408.<sup>1</sup>

Based on the current record before the Court, and after careful consideration of the Protective Orders in this case and the related litigation nationwide, the Court finds that BMW has met its burden of establishing the confidential nature of the documents and that it is both reasonable and appropriate that the slides presented at the 2018 Las Vegas Conference be subject to the confidential designation under the Protective Orders. As this litigation progresses, the Court will continue to evaluate whether the confidential designation as to these documents is appropriate.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiffs' request to remove the confidential designation from the presentation materials provided is **DENIED**.

Dated this 7th day of October, 2021.

  
\_\_\_\_\_  
JOHN A. ROSS  
UNITED STATES DISTRICT JUDGE

---

<sup>1</sup> The Court takes judicial notice of the fact that the Bang class action settlement was preliminarily approved on June 21, 2018 and finally approved on September 11, 2018. See Bang v. BMW of North Am., LLC, No. 2:15-CV-06945 (D. N.J.) (ECF Nos. 89, 122).